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From the Director's Desk

An update on the commission and its activities from the director, Dee Jones Noordermeer.

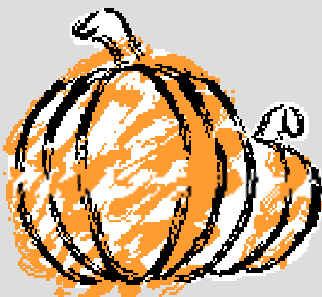
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License Renewal Q & A

Q. Does my license renew this year?

A. The easiest way to determine this is to simply look at the license or pocket card. If it has an expiration date of December 31, 2009, the license needs to be renewed this year. If it is valid through 2010, your license is not due to renew until next year.

Q. I sent in my renewal, how do I know it was received?

A. If your check has been cashed, we've received the renewal form. Checks are deposited usually within a few days of their receipt into the SDREC office.

Q. Why did my renewal get returned?

Renewal forms that are not signed or filled out completely will be returned! If combining the E&O premium and renewal fee into one check, please make sure the amount is correct. This is especially true for offices that send one check for multiple license renewals. If the fees are incorrect, ALL of the renewal forms will be returned. For licensees who have an additional license hanging at a branch office, be sure to include an extra \$30 for each additional license.

Q. I have an inactive license – what do I need to do for renewal?

If your inactive license is due for renewal this year, simply return your completed renewal application and fee to the SDREC office. As long as you are in inactive status, you do not need to have continuing education hours or E&O insurance. Failure to renew an inactive license will result in the license expiring altogether.

Q. Can I send in my renewal form now, even though I don't have all of my continuing education completed?

A. Yes! Renewal forms are due in the SDREC office **NO LATER THAN November 30, 2009**. Don't wait until the last minute to send in your renewal form, even if you do not have your education completed. This is the best way to avoid late fees and delays in processing. By submitting the renewal form early, the SDREC office has more time to update licensee information and handle other administrative duties pertaining to renewal.

Q. I recently completed some education courses. Why haven't they shown up on my education report yet?

A. The course provider is responsible for submitting proof of education for licensees. They have 10 days from the date of course completion to submit the information to the SDREC office. It may take several additional days once this information has been reported, to be posted to each licensee's education report. During this time of year, the SDREC office receives a high volume of phonecalls, emails, faxes and mail and works to process all of this information in a timely manner.

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From the Director's Desk

For those of you who attended the Commission Fall Caravan on short sales, I hope you found it as interesting as I did. I thought Lynn Madison did an excellent job of explaining the intricacies of dealing with a short sale. I was also impressed with her suggestions in regard to anticipating and being prepared for the timelines involved in this type of transaction.

It appears that the number of licensees on Facebook and other public blog sites is increasing. You must be careful that if what you post to the Internet crosses the line of engaging in the practice of real estate, you must disclose the name of your firm. Also, a seller recently brought to my attention that her transaction was being discussed by her agent and the buyer's agent via Facebook. Naturally, the seller was not very happy when she discovered confidential aspects of the transaction had been posted to a public Internet site.

Another issue of concern is the intended use of home inspection reports. The purpose of a home inspection report is to inform and educate the buyer of conditions and future maintenance of the property the buyer has made an offer on. This does not mean that, should the deal fall through, another buyer could use the same report. Just the other day, I received a call from a home inspector saying he had been approached by a buyer's agent to sell her client a report prepared for another buyer on the same property. Obviously, the buyer's agent was trying to save her client some money by obtaining an already existing home inspection report. A home inspection report is based on the condition of the property at a particular time. Once the home inspector exits the property, conditions of the home could change. By suggesting to her client to rely on an obsolete report that would not have reflected a more current condition of the

property, the agent was not acting in her client's best interest.

Renewal forms have been mailed to those who hold licenses expiring on December 31, 2009. According to Commission education records, active licensees needing continuing education are staggering. There are many active licensees with zero hours, so if you are one of these, you need to make education a priority if you want to remain active on January 1, 2010. Local boards will once again be contacted after the deadline to inform them of licensees who are ineligible to practice. If you do not know the number of hours you currently have, you can find this information in the 'Licensees Only' section on the Commission's website. For those of you who are nonresident licensees, you are now required to accompany your renewal with a certificate of licensure from your resident state.

Lastly, I want to encourage the broker associates who have received their licenses after July 1, 2009 to begin satisfying the required postlicensing education requirements. The Commission's website explains these in detail.

DjN

Errors and Omissions Insurance Premium Increases for 2010

The insurance carrier has reviewed the loss history for the South Dakota errors and omissions program. It noted that the group program losses have continued to worsen. An increase in premium is necessary for the upcoming policy period. Rice Insurance Services Company, LLC (RISC) has calculated the premium for the policy period January 1, 2010 – January 1, 2011 at the rate of \$165 per licensee for \$100,000/\$500,000 limit with \$1,000 damages deductible and \$500 claims expenses deductible.

Continental Casualty Company (CCC), a member of CNA Financial Corporation's group of insurance companies will continue to be the

insurance carrier for the renewal period. CCC is rate "A (Excellent)" by A.M. Best.

In RISC's evaluation of the loss information, it reviewed the loss reports from the previous policy periods. There has been significant development and the loss ratio for policy year 2005 and 2008 is over 100% (114% in 2005 and 136% in 2008). The premium collected to pay the claims in these two policy periods was not sufficient to cover the projected ultimate costs for legal expenses and damages. This does not take into account the other costs associated with the administration of the program and handling of claims and related costs to the insurance carrier and agent. The loss experience indicates that a higher price is needed to support the losses in South Dakota.

RISC writes group programs in eleven of the thirteen states that have mandated insurance programs for real estate licensees. A review of the data from 2004-2008 shows that South Dakota has the highest loss ratio of any of the eleven states that contract with RISC.

The premium for the South Dakota program has been \$140 per licensee in years 2003, 2004, 2005, 2006, 2007 and 2009 (the premium was \$130 for 2008). The loss data indicates that this premium amount is insufficient; therefore, the increase in premium is necessary for the program. Even though the loss ratio is the highest for the mandatory states, the \$165 premium amount proposed is still in the middle range of premiums for the group programs.

For more information, please contact RISC at 502-897-1876.



In Memoriam

The SD Real Estate Commission extends its sincerest sympathy to the families and friends of the following who recently passed away:

Richard Grebner, Broker, Aberdeen

PAY YOUR E&O INSURANCE PREMIUM ON TIME!

South Dakota requires that all active real estate licensees carry and maintain errors and omissions insurance. If you do not pay your premium timely, the Commission may place your license on inactive status or impose a fine for failure to comply with the mandatory insurance requirement. Also, you may lose a valuable feature of the group program – your **retroactive date** and any **prior acts coverage** - if you do not renew your coverage promptly.

Your retroactive date is the date you first obtained real estate errors and omissions insurance coverage and since which time you have been continuously insured. It is very important that you maintain continuous coverage in order to preserve your retroactive date.

The group policy provides limited protection for past professional acts. Prior acts coverage is determined by your retroactive date. A Claim involving your past acts may be considered for coverage so long as the error, omission or negligent act took place after the retroactive date of your coverage.

If you discover that you have missed timely renewal and do not have continuous coverage, call Rice Insurance Services Company, LLC (RISC) at (800) 637-7319 (ext. 1) immediately and see if you qualify for reinstatement of your coverage back to the inception of the policy period. This will avoid a break in coverage and loss of your retroactive date. However, this procedure does not impact the licensee's failure to comply with the mandatory insurance guidelines established by the South Dakota Real Estate Commission and you may be subject to discipline for this failure. Penalties for failure to maintain errors and omissions insurance coverage may apply.

Always pay your premium on time to avoid a break in coverage, protect yourself from uncovered Claims and avoid disciplinary action.

Licensees who do not renew their coverage timely may lose any previously established retroactive date. Those

licensees will have as an effective date the actual date that the South Dakota Real Estate Commission receives and accepts the premium for the group program.

This information is for illustrative purposes only and is not a contract. It is intended to provide a general overview of the products and services offered. Only the policy can provide the actual terms, coverages, amounts, conditions and exclusions. This program is only available in South Dakota.



Calendar of Events

November 11

Veterans Day, SDREC Office Closed

November 26-27

Thanksgiving Holiday, SDREC
Office Closed

November 30

License Renewal Deadline
E&O Insurance Deadline

December 9-10

Commission Meeting – Pierre



Continuing Education Credit for Wyoming & Montana Courses

South Dakota residents attending classroom courses in Wyoming and/or Montana to satisfy education requirements for those states may also use those hours to meet the continuing education requirements for their South Dakota licenses.

The SDREC will recognize classroom courses offered in other states, provided those courses are approved in the state in which they are offered. Administrative rules pertaining to attendance, approved subject areas and content requirements still apply to out-of-state courses.

To receive credit for an out-of-state course, each licensee must submit a copy of their completion certificate along with an "Out of State Education Credit Application" Form, available on the SDREC website – www.state.sd.us/sdrec - under the Real Estate Forms section.

This applies **ONLY** to classroom courses. Courses completed via the internet must be approved in South Dakota for licensees to receive CE credit, regardless whether the course is approved in other states.

Questions regarding course approval may be directed to the SDREC Office at (605) 773-3600.

South Dakota Real Estate VIEW

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Articles by outside experts express the author's particular viewpoints. These opinions are not necessarily shared by the Commission, nor should they be mistaken for official policy. The articles are included because they may be of interest to the readers.

Energy Efficiency Disclosure for New Homes FAQ

A new state law went into effect July 1, 2009 that requires residential builders to disclose certain energy efficiency details when selling new homes. The South Dakota Homebuilders Association and the South Dakota Public Utilities Commission have received some questions regarding the new requirement.

What exactly is the new requirement?

Gov. Mike Rounds signed Senate Bill 64 into law on March 30, 2009. The new law, now found in South Dakota Codified Law (SDCL) as 11-10-7 through 11-10-10, has four parts:

1. SDCL 11-10-7 adopts the International Energy Conservation Code (IECC) of 2006 as the voluntary standard for new residential construction in South Dakota.

2. SDCL 11-10-8 creates a new requirement for those building or selling previously unoccupied residential buildings to disclose to the buyer or prospective buyer information regarding the energy efficiency of the building.

3. SDCL 11-10-9 allows certain federal disclosure regulations to be used as an alternative in some cases.

4. SDCL 11-10-10 lays out the form to be used in disclosing information to the buyer or prospective buyer.

What is the purpose of this new requirement?

This law is meant to provide buyers of new homes with information regarding the energy efficiency of the home without requiring the builder to build to an energy code. The requirement also gives builders using the most efficient techniques a market incentive to do so. Fuel efficiency disclosure for new vehicles is a good analogy. In that case, dealers are required to disclose the fuel efficiency of new vehicles. If the buyer wants to buy a model with a lower efficiency rating, the buyer at least has the chance to make a well-informed decision.

Do I have to build to the IECC 2006 or some other energy code?

No. The form simply requires you to disclose to the buyer that you either did or did not.

Do I have to get some sort of energy efficiency certification?

No. Again, the form only requires disclosure to the buyer.

Do I have to install an Energy Star certified water heater or heating/cooling system?

No. Again, the form only requires disclosure to the buyer.

What if I built to a different or higher energy efficiency standard?

That's great! Question 2 in Part 1 of the disclosure statement gives you the opportunity to take credit for that investment.

What if I have done other things I think will improve overall energy efficiency of my home?

There is a section within the disclosure statement labeled "Part 4. Builder's Notes and Comments" that gives you the option to list or explain additional information not requested elsewhere on the form.

What if my answer will not fit in the space provided or needs to be qualified?

Again, there is a section within the disclosure statement labeled "Part 4. Builder's Notes and Comments" that gives you the option to list or explain additional information not requested elsewhere on the form.

Is there an enforcement mechanism if this law is not followed?

No new state government inspection, enforcement or compliance process has been created with regard to this new state law. Homebuilders will have the same obligation they have always had, which is to honestly answer questions asked of them to the best of their ability.

Which counties are in Zone 5? Zone 6?

Zone 5: Bennett, Bon Homme, Charles Mix, Clay, Douglas, Gregory, Hutchinson, Jackson, Mellette, Todd, Tripp, Union, Yankton

Zone 6: Aurora, Beadle, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Clark, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Edmunds, Fall River, Faulk, Grant, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hyde, Jerauld, Jones, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson,

Meade, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Stanley, Sully, Turner, Walworth, Ziebach.

License Renewal Q&A

(Continued from Page 1)

Q. I still need continuing education hours. Where can I take courses?

A. The SDREC maintains a list of all approved courses on its website. Go to www.state.sd.us/sdrec - click on "Education". The course listings for both classroom and distance learning courses are available under "Continuing Education Courses" and are updated as new information becomes available.

Q. If I don't complete all of the requirements for renewing my license until December, will I have my license by January 1st?

A. The SDREC office cannot guarantee that late renewals will be processed by January 1st.

Q. Can I pay my renewal fee/E&O premium with a credit card?

A. No. A check or money order must be submitted with the forms.

Q. How can I check my license status?

A. Licensees may look up their license numbers, renewal year, address information and education reports in the "Licensees Only" section on the SDREC website at www.state.sd.us/sdrec.

Deadline Reminder

Renewal applications are due in the office NO LATER than November 30. This is NOT a postmark deadline. Renewals must be in the commission office on or before the 30th or a late fee will be assessed. Renewals received on or after December 1st will be returned for a late fee.

Disciplinary Action

The following disciplinary actions have become effective since the last report in the newsletter. A Stipulation and Assurance of Voluntary Compliance is a settlement agreement between licensees and the Real Estate Commission and constitutes neither an admission nor a denial of any violation.

Jeffrey Iverson, Sioux Falls, Property Manager. Findings of Fact, Conclusions of Law, and Order. Revocation of license; penalty of \$2,500 and costs of \$9012.64. Violation of SDCL 36-21A-71(1), (5), (8), (15), (32), and (34). Iverson has committed unprofessional conduct by commingling trust funds with his own funds, failure to account for trust funds, issuing an insufficient funds check, failure to produce records concerning a transaction under investigation by the commission, demonstrating bad faith, incompetency and fraudulent dealings.

Freddie Mac Video Helps Delinquent Borrowers Work With Loan Servicers

Citing delays and frustration on the part of homeowners who are trying to take advantage of mortgage loan modifications authorized by the Obama administrations "Making Home Affordable" program, Freddie Mac recently released a YouTube™ video that helps homeowners to determine the documents they need in order to have a "focused" conversation with authorized loan counselors.

According to Freddie Mac, the U.S. government-sponsored enterprise that provides mortgage capital to lenders, says that lenders and loan servicers are being overwhelmed by contacts from homeowners in financial trouble who are seeking to take advantage of the new loan modification and refinancing programs.

Available in both English and Spanish, the new video entitled "Stop Foreclosure: Documents Your Lender Needs to Help You," can be seen at Freddie Mac's YouTube™ channel at <http://www.youtube.com/FreddieMacWeb>. The two-minute production shows late-paying borrowers how to gather a few

financial documents before calling a mortgage servicer. This simple step can cut the time needed for a loan servicer to understand the borrower's situation, determine eligibility for a workout and process the application for a loan modification under the "Making Home Affordable" program or Freddie Mac's other workout initiatives.

According to the video, the key documents borrowers should have when they call their servicer include:

- Most recent monthly mortgage statement;
- Pay stubs or other documents showing their household's monthly pre-tax income;
- Most recent tax return;
- Second loan or home equity line of credit statements;
- Account balances and minimum monthly payments on credit cards, car loans, student loans or other debt;
- A short, concise description of the financial hardship that is causing or leading to a mortgage delinquency.

New Licensees

The South Dakota Real Estate Commission would like to welcome the following new licensees.

Auctioneer

Fischer, Clint W – Ree Heights

Broker

Calhoun, Dennis – Brookfield, MO
Hubbell, Theresa A – Franklin, TN

Broker Associate

Boysen, Tim – Presho
Charlson, Jennifer T – Sioux Falls
Contreras, Godofredo – Sioux Falls
Emmons, Patrick J – Dell Rapids
Fortney, Chelsea L – Sioux Falls
Grosch, Velta M – Whitewood
Helean, Ronald J – Belle Fourche
Hovey, Andrea L – Rapid City
Huber, Darcy L – Sioux Falls
Innen, Sharese – Davis
Jensen, Kenita – Belle Fourche
Jones, Karne D – Rapid City
Labella, Paige M – Rapid City
Larsen, Sean M – Sioux Falls
Lee, Dennis M – Skiatook, OK
Nutter, Sherrie I – Rapid City

Orr, Michael C – Sioux Falls
Picotte, Sacha – Sioux Falls
Pikalov, Tyana – Sioux Falls
Popkes, Ricky L – Canistota
Pratt, Carl R – Sheldon, MO
Pryor, Darin C – Rapid City
Reed, John D – Skiatook, OK
Shipley, Jeffery L – Rapid City
Stockberger, Adam L – Sioux Falls
Street, James M – Rapid City
Waltjer, Angela P – Sioux Falls
Wright, LuAnn – Sioux Falls
Yates, Dawne L – Hill City

Property Manager

Bielfeldt, Dennis D – Brookings
Dekker, Stephen R – Sioux Falls
Dwinell, Michelle M – Rapid City
Losey, Robert E – Deadwood
Smith, Stacy R – Warner
Winterboer, Megan – Brookings
Zueger, Jody A – Bath

Home Inspector

Cleveringa, Nathan L – Brandon
Erickson, Vernon D – Sioux Falls
Johnson, James M – Sioux Falls
Noyes, Jeffrey – Huron

Residential Rental Agent

Arenas, Jennifer – Sioux Falls
Battey, Emily R – Sioux Falls
Beaty, Steven W – Sioux Falls
Cornett, Andrew – Sioux Falls
Frericks, Shawn – Aberdeen
Gertz, Sandra J – Sioux Falls
Hartsock, Stacey K – Pierre
Horning, Philip – Sioux Falls
Jensen, Rick – Pierre
Kropp, Rosalie C – Sioux Falls
Lewis, Janice – Sioux Falls
Melmer, Jenny A – Mitchell
Stephens, Julie K – Hartford
Stingley, Angie S – Sioux Falls
Tracy, Chrystine – Worthing
Twiss, Carmen R – Rapid City
Williams, Tera – Sioux Falls

Salesperson

Ahms, Nicki L – Henderson, NV
Barber, Lonnie R – Ogden, UT
Bellgardt, Jeffrey S – Sioux City, IA
Calhoun, Micheal D – Brookfield, MO
Houlton, Dustin D – Ireton, IA
Lang, Jr., William E – Farmington, NM

Timeshare Agent

Wiens, Bruce E – Rapid City

APPRAISER UPDATE

This section of the South Dakota Real Estate Review is the responsibility of the South Dakota Dept. of Revenue & Regulation Appraiser Certification Program. Articles are printed here to communicate pertinent information to those appraisers who receive this newsletter and are licensed under the Certification Program. Appraiser certification inquiries can be directed to Sherry Bren, Program Administrator, 445 E. Capitol, Pierre, SD 57501, 605-773-4608

Appraiser Certification Program Mission–Purpose–Intent

The Appraiser Certification Program was implemented July 1, 1990, pursuant to enactment of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) by Congress. The mission of the Program is to certify, license and register appraisers to perform real estate appraisals in the state of South Dakota pursuant to Title XI (FIRREA). The purpose of the Program is to examine candidates, issue certificates, investigate and administer disciplinary actions to persons in violation of the rules, statutes and uniform standards, and approve qualifying and continuing education courses. Title XI intends that States supervise all of the activities and practices of persons who are certified or licensed to perform real estate appraisals through effective regulation, supervision and discipline to assure their professional competence.

Appraiser Certification Program Advisory Council

Council members provide recommendations to the Secretary of the Department of Revenue and Regulation in the areas of program administration in order to sustain a program that is consistent with Title XI. The Council meets quarterly in public forum. See the Website for meeting information. www.state.sd.us/appraisers

Advisory Council Vacancy

The Dept. of Revenue and Regulation is seeking nominations for a **State-Certified General Appraiser practicing in Western South Dakota** to serve as a member of the Appraiser Advisory Council.

The Advisory Council is responsible for advising the Department Secretary in matters of program administration, procedure, and policy in order to sustain a program that is consistent with Title XI, Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) of 1989 administered by the Appraisal Subcommittee, the uniform standards and qualifications criteria as set by the appraisal Standards Board and the Appraiser Qualifications Board of the Appraisal Foundation. The council members do not receive compensation for any expenses incurred to serve on the council. Four meetings are held each year in Pierre. The term limit is four years.

If you are interested in nominating yourself or another appraiser for appointment to the Advisory Council, please submit your nomination in writing to the Dept. of Revenue & Regulation, Appraiser Certification Program, 445 E. Capitol Ave., Pierre, SD 57501. The nomination should include the appraiser's name, address,

appraiser title and the reason that you believe you or the person you have nominated should be appointed to the Advisory Council. Any person nominated for the position should possess substantial knowledge regarding appraising, a reasonable understanding of Title XI, FIRREA and its impact on the appraiser profession, and be highly respected by other appraiser professionals.

Please submit nominations no later than Nov. 1, 2009. If you have any questions, please feel free to contact Sherry Bren at 773-4608.

USPAP Q & A

Vol. 11, No. 8, August 2009

Application of Appraisal Reporting Requirements

Question: If an appraiser is bound by USPAP for a particular assignment, when must the appraiser comply with the USPAP appraisal reporting requirements?

Multiple Intended Uses in the Same Appraisal Report

Question: May I perform an appraisal with multiple intended uses and communicate the results in a single report with a single valuation and be in compliance with USPAP? All of the intended uses have the same type and definition of value and were performed with the same scope of work?

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Appraiser's Obligations Under the Home Valuation Code of Conduct (HVCC)

Question: I understand that the Home Valuation Code of Conduct (HVCC) prohibits mortgage brokers or real estate agents from engaging appraisers in appraisals for loans eligible for sale on the secondary mortgage market to Fannie Mae or Freddie Mac. What are my obligations as an appraiser if a mortgage broker or real estate agent contacts me and attempts to engage me in such an assignment?

Appraiser's Obligations Under the Home Valuation Code of Conduct (HVCC)

Question: Does an appraiser have an obligation to determine whether or not the appraisal is to be used in a transaction that is subject to the requirements of HVCC?

Disposal of Workfiles

Question: I am aware of and comply with the workfile retention requirements in the Record Keeping section of the ETHICS RULE in USPAP. However, once the required retention period has passed, does USPAP dictate a method I must employ to dispose of the workfiles?

Due Process of Law

Question: I am a personal property appraiser that specializes in the appraisal of coins and currency. I am required, by federal law, to report United States counterfeit coins and currency to the U.S. Secret Service. In reporting these counterfeit coins and

currency, I am also required under federal law to provide them with the name and contact information of my client. Would disclosing my client's name under these circumstances be a jurisdictional exception under USPAP?

Answers to the above questions can be found at: www.appraisalfoundation.org.

New Licensees – August/Sept. 2009

Allan R. Novstrup, State-Registered –
Aberdeen, SD

Wayne Rogers, State-Certified
General – Ida Grove, IA

Steven C. Berberich, State-Certified
Residential – Alexandria, MN

John F. Schaefer, State-Certified
General – St. Cloud, MN

Nancy Kristofferson, State-Certified
General – Sioux Falls, SD

Information Regarding Disciplinary Actions

Public information regarding disciplinary action taken against an appraiser is available upon written request to the Dept. of Revenue & Regulation, Appraiser Certification Program, 445 E. Capitol Ave., Pierre, SD 57501 or e-mail – Sherry.Bren@state.sd.us.

Review of Cases – 1/1/09 – 10/06/2009

For the period Jan. 1-Oct. 06, 2009, the Dept. has received 9 upgrade applications and initiated 11 complaint investigations.

Upgrades – 2 issued.

Complaints – 8 pending.

Upgrade – Oct. 2009

None.

Revisions To TO USPAP & USPAP Advisory Opinions

Background - On April 3, 2009, the Appraisal Standards Board (ASB) approved

and adopted modifications to the 2008-09 edition of the *Uniform Standards of Professional Appraisal Practice* (USPAP). This action was the culmination of a 15-month joint ASB/AQB campaign that asked appraisers, users of appraisal services, regulators, educators, and others how well USPAP was serving their needs. This was accomplished with a series of public documents and public meetings. Written comments from almost 2,000 individuals, as well as oral comments offered at public meetings, were also received. The ASB considered every comment, developed a work plan to address the issues brought forward, and asked for and received public comment on a proposed work plan. This work plan included changes for the 2010-11 edition of USPAP, as well as additional changes (such as those involving the issue of reporting) for the 2012-13 edition of USPAP.

2010-2011 Changes - The changes to USPAP that were adopted by the ASB were the result of three exposure drafts, issued on October 3, 2008, December 10, 2008, and February 10, 2009. These changes have been incorporated into this 2010-2011 edition of USPAP and associated guidance material. The exposure drafts proposed changes to the following areas of USPAP:

- Definition of “Signature”
- Definition of “Jurisdictional Exception”
- Definition of “Assignment”
- The ETHICS RULE
- The COMPETENCY RULE
- The JURISDICTIONAL EXCEPTION RULE
- STANDARD 3, *Appraisal Review, Development and Reporting*

The Board received written comments from interested parties on all three exposure drafts and heard oral comments at public meetings held on November 18, 2008, February 23, 2009, and April 3, 2009.

The goal of the *Uniform Standards of Professional Appraisal Practice* is to promote and maintain a high level of public trust in appraisal practice by establishing requirements for appraisers. All potential changes and additions to USPAP are evaluated in light of this goal. The adopted changes are intended to improve the clarity, understanding and enforcement of USPAP, thereby furthering the goal of promoting and maintaining public trust in appraisal practice.

In reviewing comment letters received on the exposure drafts, the ASB's primary focus is the reasoning and insight presented in the letters, rather than the source or authorship. While a numerical count of comment letters may be taken, the ASB does not weigh the numerical count as a determining factor in its final decisions. The

ASB is guided by the quality, relevancy, and accuracy of the points made, and not their frequency.

With the exception of minor administrative edits, the Board adopted the proposed revisions to USPAP as contained in the Third Exposure Draft.

Most of the changes to the 2010-2011 USPAP were done for clarity and do not alter the intent or general requirements. The changes that do impact requirements include the following:

The ETHICS RULE

Conduct Section - Prior to accepting an assignment, and if discovered at any time during the assignment, an appraiser must disclose to the client and in the report certification:

- any services regarding the subject property performed by the appraiser within the prior three years, as an appraiser or in any other capacity.

This disclosure requirement will allow a prospective client to know, at the time of the assignment, whether the appraiser is performing, or has performed, other services with regard to the property, such as property management, leasing, brokerage, auction, or investment advisory services, etc., thus allowing the client to determine potential conflicts, if any.

Whether for potential or perceived conflicts of interest, disclosure prior to accepting an assignment is important to preserving public trust. The client should have an opportunity to evaluate this information *before* the appraiser is engaged, or if such potential or perceived conflict of interest is discovered by the appraiser during the assignment. The appraiser must avoid bias – a preference or inclination that may preclude his or her impartiality, independence, or objectivity in the assignment. The perception of possible bias is also potentially damaging to public trust in the appraisal profession. Therefore, appraisers should have an obligation to disclose an interest and potential conflict to the client prior to being engaged in an

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assignment, or if it is discovered by the appraiser during the assignment.

Record Keeping Section - The Board deleted an appraiser's obligation to allow the client access to the workfile for a Restricted Use Appraisal Report. The requirement that all appraisal reports contain sufficient information to enable the intended users of the appraisal to understand the report properly made this ETHICS RULE statement unnecessary. Conforming edits to SR 2-2(c)(viii), SR 8-2(c)(viii) and SR 10-2(b)(ix) were also made.

STANDARD 3, *Appraisal Review, Development and Reporting*

STANDARD 3 has been rewritten significantly. The ASB's intent was to update and clarify the requirements for appraisal review, not to introduce changes to current appraisal review practice or create new appraisal review requirements.

An examination of the requirements for appraisal review revealed that although the Standard addresses the requirements for both development and reporting, the requirements are often not distinct or fully elaborated. Therefore, revisions were made to expand and distinguish the development and reporting requirements.

STANDARD 3 was divided into two sections: one addressing development, and

one addressing reporting. The revised language mirrors the form and content of the other STANDARDS. A review of the other Standards revealed that they all include a basic format of general requirements followed by specific requirements. For example, Standards Rule 1-1 provides for the basic requirements of appraisal development, followed by the requirements of problem identification in Standards Rule 1-2. The remaining Standards Rules present more specific requirements. However,

STANDARD 3 did not follow this format, which complicated understanding, application, education, and enforcement. Therefore, revisions were made to create a more logical and comprehensive structure.

The requirements of Standards Rules 3-1(d) through (g) present the requirements related to the process of appraisal review. The considerations previously required (completeness, adequacy, relevance, appropriateness, and reasonableness) failed to reflect the true nature of current practice and were somewhat repetitive. The reviewer's scope of work can include much less than and much more than these considerations. Further, there was no distinction of the difference between reviewing an analysis (development) and reviewing a report. The revisions made are intended to better guide a

review process that is in practice quite broad and flexible.

A common area of misunderstanding in STANDARD 3 related to the requirements that apply to reviewers who are providing their own opinion(s) related to the subject of an appraisal, an appraisal review, or an appraisal consulting problem addressed in the work under review. In the review of an appraisal assignment, the reviewer can provide an opinion of value for the property that is the subject of the appraisal review assignment. In the review of an appraisal review assignment, the reviewer can provide an opinion of quality for the work that is the subject of the appraisal review assignment. In the review of an appraisal consulting assignment, the reviewer can provide an analysis, recommendation, or opinion for the consulting problem that is the subject of the appraisal consulting assignment. Revisions were made to organize and clarify the requirements that apply to a reviewer providing their own opinion of value, review opinion, or consulting conclusion related to the work that is the subject of the appraisal review assignment.

Administrative edits were also made to USPAP and all guidance material, including the *USPAP Advisory Opinions* and *USPAP Frequently Asked Questions*, for conformity and consistency.